

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0463.02 Chelsea Princell x4335

HOUSE BILL 24-1289

HOUSE SPONSORSHIP

Vigil and Joseph,

SENATE SPONSORSHIP

Michaelson Jenet and Roberts,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ESTABLISHMENT OF WORKLOAD STANDARDS BY THE
102 OFFICE OF STATE PUBLIC DEFENDER TO PREVENT EXCESSIVE
103 WORKLOADS FOR DEPUTY PUBLIC DEFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

No later than July 1, 2025, the bill requires the office of state public defender to implement workload standards for determining when a deputy public defender's workload is excessive pursuant to the federal and state constitutions and the Colorado rules of professional conduct.

The bill requires the office of state public defender to consult with

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

employees of the office of state public defender in creating the standards.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Indigent defendants deserve legal representation
5 commensurate with the legal representation that nonindigent defendants
6 receive;

7 (b) Public defenders have a constitutional, statutory, and ethical
8 duty to provide sufficient representation and legal services to indigent
9 defendants. However, excessive workloads may prevent public defenders
10 from fulfilling these obligations.

11 (c) A September 2023 nationwide study conducted by the Rand
12 Corporation, American Bar Association, and other criminal justice
13 stakeholders provided new workload standards that can be used to assist
14 public defender agencies, policymakers, and other stakeholders in
15 evaluating public defender workloads within their communities.

16 (2) Therefore, the general assembly declares that individually
17 applicable workload standards are critical to a public defender's ability to
18 provide effective legal counsel guaranteed by the federal and state
19 constitutions, the Colorado Rules of Professional Conduct, and the Office
20 of Public Defender's mandate to provide legal services commensurate
21 with those available to nonindigent individuals.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 21-1-108 as
23 follows:

24 **21-1-108. State public defender workload standards - report.**

25 (1) **NOLATER THAN JULY 1, 2025, THE OFFICE OF STATE PUBLIC DEFENDER**

1 SHALL IMPLEMENT WORKLOAD STANDARDS FOR THE OFFICE OF STATE
2 PUBLIC DEFENDER TO FOLLOW TO DETERMINE WHETHER A DEPUTY PUBLIC
3 DEFENDER'S WORKLOAD IS EXCESSIVE PURSUANT TO THE FEDERAL AND
4 STATE CONSTITUTIONS, THE COLORADO RULES OF PROFESSIONAL
5 CONDUCT, AND THE OFFICE OF STATE PUBLIC DEFENDER'S DUTIES AS
6 DETAILED IN SECTION 21-1-101 (1). THE STANDARDS MUST:

7 (a) ACCOUNT FOR THE AVERAGE TIME REQUIRED FOR A DEPUTY
8 PUBLIC DEFENDER TO PROVIDE ETHICAL AND CONSTITUTIONALLY
9 SUFFICIENT REPRESENTATION PER CASE TYPE AND OFFENSE AS DESCRIBED
10 IN TITLE 18, ARTICLE 2.5 OF TITLE 19, TITLE 42, AND ANY OTHER CASE
11 TYPE OR OFFENSE SPECIFIED IN THE LAW OF THIS STATE THAT REQUIRES
12 LEGAL ASSISTANCE FROM THE OFFICE OF STATE PUBLIC DEFENDER;

13 (b) ACCOUNT FOR ATTORNEY DUTIES MANDATED BY THE FEDERAL
14 AND STATE CONSTITUTIONS, THE COLORADO RULES OF PROFESSIONAL
15 CONDUCT, AND SECTION 21-1-101(1);

16 (c) ACCOUNT FOR VARIABLE JURISDICTIONAL NEEDS;

17 (d) ACCOUNT FOR THE TIME NEEDED TO MANAGE JOB
18 RESPONSIBILITIES UNRELATED TO CASE REPRESENTATION, INCLUDING
19 ATTENDING NECESSARY TRAINING, PAID TIME OFF, FAMILY AND MEDICAL
20 LEAVE, EXTENDED SICK LEAVE, SUPERVISOR RESPONSIBILITIES, AND
21 PERFORMING ADMINISTRATIVE TASKS;

22 (e) ESTABLISH PROTOCOLS FOR THE CHIEF DEPUTY PUBLIC
23 DEFENDER AND OTHER OFFICE OF STATE PUBLIC DEFENDER STAFF
24 RESPONSIBLE FOR SUPERVISING THE WORK OF DEPUTY PUBLIC DEFENDERS
25 TO FOLLOW WHEN MONITORING A DEPUTY PUBLIC DEFENDER'S WORKLOAD;

26 (f) ESTABLISH PROTOCOLS FOR NOTIFYING THE OFFICE OF STATE
27 PUBLIC DEFENDER WHEN A DEPUTY PUBLIC DEFENDER'S WORKLOAD

1 EXCEEDS THE WORKLOAD STANDARDS CREATED IN THIS SUBSECTION (1);

2 AND

3 (g) CONSIDER THE PREVAILING NORMS OF EFFECTIVE PUBLIC
4 DEFENSE REPRESENTATION AND DATA DETAILED IN THE NATIONAL PUBLIC
5 DEFENSE WORKLOAD STUDY PUBLISHED IN 2023 AND ANY OTHER
6 RELEVANT STATE PUBLIC DEFENDER WORKLOAD STUDY.

7 (2) (a) IN CREATING THE STANDARDS PURSUANT TO SUBSECTION
8 (1) OF THIS SECTION, THE OFFICE OF STATE PUBLIC DEFENDER SHALL
9 CONSULT WITH, AND SOLICIT FEEDBACK FROM, EMPLOYEES OF THE OFFICE
10 OF STATE PUBLIC DEFENDER.

11 (b) THE CONSULTATION REQUIRED PURSUANT TO SUBSECTION
12 (2)(a) OF THIS SECTION CONSISTS OF AT LEAST THREE MEETINGS WITH THE
13 STATE PUBLIC DEFENDER. THE MEETINGS MUST BE OPEN TO ALL
14 EMPLOYEES OF THE OFFICE OF STATE PUBLIC DEFENDER REGARDLESS OF
15 EMPLOYMENT STATUS, JOB CLASSIFICATION, OR AFFILIATION WITH LABOR
16 ORGANIZATIONS.

17 (c) ALL CONSULTATION MEETINGS MUST BE CONDUCTED IN PERSON
18 AND ALLOW FOR REMOTE PARTICIPATION.

19 (d) THE OFFICE OF STATE PUBLIC DEFENDER SHALL PROVIDE
20 NOTICE OF THE CONSULTATION MEETING TO ALL EMPLOYEES OF THE
21 OFFICE OF STATE PUBLIC DEFENDER AT LEAST FOUR WEEKS PRIOR TO THE
22 DATE OF THE CONSULTATION MEETING. THE NOTICE MUST INCLUDE THE
23 DATE, TIME, AND LOCATION OF THE CONSULTATION MEETING, AND
24 INFORMATION ON HOW TO ATTEND REMOTELY.

25 (e) AFTER THE CONCLUSION OF THE FINAL CONSULTATION
26 MEETING, AND BEFORE THE OFFICE OF STATE PUBLIC DEFENDER
27 IMPLEMENTS THE STANDARDS CREATED PURSUANT TO THE REQUIREMENTS

1 OF THIS SECTION, THE OFFICE OF STATE PUBLIC DEFENDER MUST PROVIDE
2 A WRITTEN COPY OF THE PROPOSED STANDARDS TO ALL EMPLOYEES OF
3 THE OFFICE OF STATE PUBLIC DEFENDER AND ALLOW EMPLOYEES OF THE
4 OFFICE OF STATE PUBLIC DEFENDER TO PROVIDE FEEDBACK AND
5 COMMENTS REGARDING THE PROPOSED STANDARDS. THE FEEDBACK AND
6 COMMENT PERIOD MUST BE OPEN FOR AT LEAST FOUR WEEKS AFTER A
7 WRITTEN COPY OF THE PROPOSED STANDARDS IS SENT TO EMPLOYEES OF
8 THE OFFICE OF STATE PUBLIC DEFENDER.

9 (3) THE OFFICE OF STATE PUBLIC DEFENDER SHALL INCLUDE AS
10 PART OF ITS "SMART ACT" HEARING, REQUIRED BY SECTION 2-7-203,
11 INFORMATION ON THE NUMBER OF TIMES A DEPUTY PUBLIC DEFENDER'S
12 WORKLOAD EXCEEDED THE WORK LOAD STANDARDS CREATED PURSUANT
13 TO SUBSECTION (1) OF THIS SECTION AND HOW EACH OCCURRENCE WAS
14 HANDLED.

15 **SECTION 3. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly; except
18 that, if a referendum petition is filed pursuant to section 1 (3) of article V
19 of the state constitution against this act or an item, section, or part of this
20 act within such period, then the act, item, section, or part will not take
21 effect unless approved by the people at the general election to be held in
22 November 2024 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.